

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

KEVIN STERK and JIAH CHUNG,)
individually, and on behalf of a class of)
similarly situated individuals,)
Plaintiffs,) Case No.: 1:11-cv-1729
v.) (Consolidated with 11-cv-01819)
REDBOX AUTOMATED RETAIL, LLC, a)
Delaware limited liability company, d/b/a/)
Redbox,) [Hon. Matthew F. Kennelly]
Defendant.)

)

**PLAINTIFFS' MOTION FOR LEAVE TO FILE INSTANTER
UNREDACTED DOCUMENTS UNDER SEAL**

Plaintiffs Kevin Sterk and Jiah Chung (“Plaintiffs”), pursuant to Local Rules 5.8 and 26.2, along with the Protective Order in this case, respectfully move the Court for an Order granting them leave to file *instanter* certain documents under seal in conjunction with Plaintiffs’ Memorandum of Points and Authorities in Support of Motion for Additional Discovery Pursuant to Fed. R. Civ. 56(d), because those documents contain information that has been designated as Confidential by Defendant Redbox Automated Retail, LLC (“Redbox”) and one of its third party vendors. In support of their Motion, Plaintiffs state as follows:

1. On April 18, 2013, concurrent with the filing of this Motion, Plaintiffs publicly filed a redacted version of their Memorandum of Points and Authorities in Support of Motion for Additional Discovery Pursuant to Fed. R. Civ. 56(d) (the “Memorandum”). (Dkt. 183.)
2. Plaintiffs have served unredacted versions of the Memorandum (including all attached exhibits) on Redbox, have provided a courtesy copy of the unredacted Memorandum to

the Court, and have provisionally filed sealed versions of the unredacted Memorandum pursuant to Local Rule 26.2(c).

3. The Memorandum and its exhibits reference factual information obtained over the course of discovery in this matter, along with the contents of Redbox's unredacted: (i) Memorandum of Points and Authorities in Support of its Motion for Summary Judgment, (Dkt. No. 167), (ii) Statement of Undisputed Material Facts, (Dkt. No. 169), (iii) Declaration of Eric Hoersten, (Dkt. No. 171), and (iv) certain exhibits attached thereto. Specifically, the Memorandum and its exhibits reference information that has been identified as Confidential by Redbox and a third party (*i.e.*, one of Redbox's vendors), pursuant to the Protective Order previously entered by the Court. (Dkt. No. 100.) Those references include the name of at least one third party vendor that receives personally identifiable customer information from Redbox, along with descriptions of the functions the vendor provides to Redbox (the "Confidential Information").

4. The Court recently granted Redbox's motion to seal and keep confidential information relating to "the names of the vendors that receive any sort of customer information from Redbox . . . along with a description of the function each vendor provides to Redbox[, Redbox's] relationship with certain of these vendors[, and their] use of specific databases and proprietary software information [that is] commercially sensitive." (Dkt. Nos. 174 at ¶ 5, 178.)

5. The Protective Order prohibits either Party from publicly disclosing any documents or information that are designated as Confidential, including the Confidential Information referenced above. Accordingly, and pursuant to the Protective Order and consistent with this Court's recent ruling on Redbox's motion to seal, Plaintiffs seek leave to file *in statu nascendi* the unredacted Memorandum and its exhibits under seal.

WHEREFORE, Plaintiffs respectfully request that this Court, pursuant to Local Rules 5.8 and 26.2, enter an Order:

- (i) Granting them leave to file *instanter* an unredacted version of the Memorandum of Points and Authorities in Support of Motion for Additional Discovery Pursuant to Fed. R. Civ. 56(d) under seal; and
- (ii) Awarding such other and further relief as the Court deems equitable and just.

Respectfully submitted,

Dated: April 18, 2013

KEVIN STERK and **JIAH CHUNG**, individually and on behalf of all others similarly situated,

By: /s/ Rafey S. Balabanian
One of Plaintiffs' Attorneys

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CERTIFICATE OF SERVICE

I, Benjamin S. Thomassen, an attorney, certify that on April 18, 2013, I served the above and foregoing ***Plaintiffs' Motion For Leave To File Instanter Unredacted Documents Under Seal***, by causing true and accurate copies of such paper to be filed with the Court and transmitted to all counsel of record via the Court's CM/ECF electronic filing system.

/s/ Benjamin S. Thomassen _____